



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

In re Patent Application of

Atty. Dkt. 36-1201

C#/M#

APPLEBY

Group Art Unit: 2123

Serial No. 09/051,070

Examiner: Phan, T.

Filed: April 2, 1998

Date: August 21, 2002

Title: TRAINING APPARATUS AND METHOD

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

☐ **NOTICE OF APPEAL**

Applicant hereby appeals to the Board of Appeals from the decision dated _____ of the Examiner twice/finally rejecting claims _____ (\$ 320.00)

\$ 0.00

☒ An appeal **BRIEF** is attached in triplicate in the pending appeal of the above-identified application (\$ 320.00)

\$ 320.00

☒ An **ORAL HEARING** is requested under Rule 194 (\$ 280.00) (due within two months after Examiner's Answer)

\$ 280.00

☐ Credit for fees paid in prior appeal without decision on merits

-\$ (0.00)

☐ A reply brief is attached in triplicate under Rule 193(b)

(no fee)

☐ Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) (\$110.00/1 month; \$400.00/2 months; \$920.00/3 months; \$1440.00/4 months)

\$ 0.00

SUBTOTAL \$ 600.00

☐ Applicant claims "Small entity" status; enter 1/2 of subtotal and subtract

-\$ (0.00)

☐ "Small entity" statement attached.

SUBTOTAL \$ 600.00

Less month extension previously paid on

-\$ (0.00)

TOTAL FEE ENCLOSED \$ 600.00

Any future submission requiring an extension of time is hereby stated to include a petition for such time extension. The Commissioner is hereby authorized to charge any deficiency, or credit overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our **Account No. 14-1140**. A duplicate copy of this sheet is attached.

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LSN:sl

NIXON & VANDERHYE P.C.
By Atty.: Larry S. Nixon, Reg. No. 25,640

Signature: Larry S. Nixon



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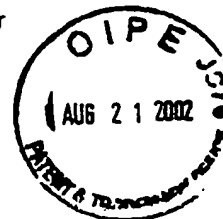
Serial No.: 09/051,070
Inventor/s: APPLEBY
Title: TRAINING APPARATUS AND METHOD

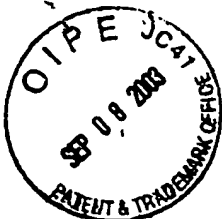
C#/M#: 36-1201
Atty: Larry S. Nixon
Date: August 21, 2002

X **Appeal Brief (In Triplicate)**
Pages Specification, Claims & Abstract
Claims
Sheets of Drawings
Declaration (Pages)
Assignment (Pages) Including Cover
Priority Document(s)
Base Issue Fee Transmittal
\$ Fee (Check) - Pre-Bill
\$600.00 Fee (Check) - Non Pre-Bill

\$600.00 = Total Fee Enclosed

Other:





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Nixon & Vanderhye P.C.
ATTORNEYS AT LAW

September 5, 2003

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#27 Reg for
Refund

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Subject: **REQUEST FOR REFUND TO DEPOSIT ACCOUNT**
Deposit Account No. 14-1140
Statement Date: August 29, 2003
Date Posted: August 4, 2003
Control Nos.: 297, 298, 299
Fee Codes: 1401, 1402, 1403; \$920.00
Our Ref.: 36-1201

To whom it may concern:

Regarding the Monthly Statement of Deposit Account dated August 29, 2003, (copy attached), we believe there is a fee related error therein, which has resulted in a charge to our Deposit Account that appears to be unwarranted. Please refer to the following explanation and issue a refund as soon as possible.

We filed a Notice of Appeal on June 21, 2002 and paid the amount of \$320.00 for the Notice of Appeal fee. On August 21, 2002, we filed an Appeal Brief and paid the amounts of \$320.00 for the Appeal Brief fee and \$280.00 for the Oral Hearing fee (copies of our transmittal sheets and postcard receipts are attached together with copies of our cancelled checks showing payment of the total amount of \$920.00 (\$320 + 320 + 280)).

Our Deposit Account was charged a total of \$920.00 under fee codes 1401, 1402 and 1403 (Notice of Appeal fee, Appeal Brief fee and Oral Hearing fee). As indicated above, however, we already paid for these fees with our June 21, 2002 Notice of Appeal and August 21, 2002 Appeal Brief as evident from the attached cancelled checks. That is, since we have already paid for the Notice of Appeal fee, Appeal Brief fee and Oral Hearing fee, there should have been no charge to our account. See, e.g., MPEP 1208.02 which states, inter alia, the following:

"Whether appellant elects to continue prosecution or to request reinstatement of the appeal, if prosecution was reopened prior to a decision on the merits by the Board of Patent Appeals and Interferences, the fee paid for the notice of appeal, appeal brief, and request for oral hearing (if applicable) will be applied to a later appeal on the same application."

September 5, 2003

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Therefore, please credit our Account No. 14-1140 in the amount of \$920.00.

Thank you for your time and assistance, and if you have any questions, please do not hesitate to call me at the above number.

Very truly yours,

NIXON & VANDERHYE P.C.

By: 
Raymond Y. Mah

RYM:sl
Enclosures

07/28 41	10428766	3789-19	1201	\$252.00	\$11,275.98
07/28 42	10428766	3789-19	1202	\$18.00	\$11,257.98
07/29 297	09051070	36-1201	1402	\$320.00	\$10,937.98
07/29 298	09051070	36-1201	1403	\$280.00	\$10,657.98
07/29 299	09051070	36-1201	1401	\$320.00	\$10,337.98
07/30 3	09955297	550-269	1201	\$84.00	\$10,253.98
07/30 4	09955297	550-269	1202	\$252.00	\$10,001.98
07/30 5	10381900	3764-138	9204	-\$130.00	\$10,131.98
07/30 40	10604552	839-1435	1601	\$750.00	\$9,381.98
07/30 552	10257597	4137-22	1615	\$216.00	\$9,165.98
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07/31 2	5081659	1579-690	2552	\$120.00	\$8,765.98
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07/31 7	09955297	550-269	1253	\$930.00	\$8,171.98
07/31 102	09536017	2674-4	9204	-\$55.00	\$8,226.98

START	SUM OF	SUM OF	END
BALANCE	CHARGES	REPLENISH	BALANCE
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